

FILED

JUL 13 2021

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US DISTRICT COURT, EDNC
BY PA DEP CLK

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UNITED STATES

EASTERN DISTRICT OF NORTH CAROLINA

KELVIN DAISE JR,

Plaintiff,

vs.

YOUNG MENS CHRISTIAN ASSOCIATION,
YMCA OF SOUTHEASTERN NORTH
CAROLINA, NIR FAMILY YMCA

Defendants

Case No. Case No.: 7:21-CV-91-BO

AMENDED COMPLAINT FOR CIVIL
PENALTIES AND JUDICIAL RELEIF

Now comes Petitioner Kelvin Daise who files this civil complaint in enforcement of the 42 U.S. Code § 12101 Americans with Disabilities Act (ADA) which prevents disability discrimination in places of public accommodation and 42 U.S. Code § 2000a Prohibition against racial discrimination in places of public accommodation as the YMCA is a place of exhibition and entertainment which does affect United States commerce, North Carolina Chapter 75B Racial Discrimination in business as this organization affects United States commerce and the membership contracts of the organization are an action of business, North Carolina Chapter 168A Persons with Disabilities Protection Act as it is public knowledge that Petitioner suffers from (168A-3(1a) mental disabilities recognized and identified by New Hanover County Hospital and the state of North Carolina.

JURISTITION

AMENDED COMPLAINT FOR CIVIL PENALTIES AND JUDICIAL RELEIF - 1

1 Petitioner asserts jurisdiction and venue is proper given a great portion of the
2 actions which resulted in the claims provided took place within the New Hanover County area
3 and Petitioner discovered the depth of the activity while residing in the Pender County area prior
4 to his denial of organizational membership.
5

6 Petitioner asserts that there is no inconvenience brought upon the Respondents
7 and that New Hanover County is the centralized location to hear this matter. Petitioner expects
8 Respondent YMCA holds a membership office within the New Hanover County area.
9

10 **FACTS OF THE MATTER**

11 The Petitioner is an original resident of New Hanover County and has been a
12 member of the YMCA organization since his 2011-2012 graduate school years in Philadelphia,
13 PA.
14

15 Petitioner is an African American/Black male who suffers from Post-Traumatic
16 Stress Syndrome and bipolar disorder.
17

18 In 2019 Petitioner was diagnosed with Post-Traumatic Stress Syndrome (PTSD)
19 by a medical physician in Fort Lauderdale, Florida during a temporary bout of homelessness.
20

21 In March of 2021 Petitioner was involuntarily committed (IVC'ed) to the New
22 Hanover County Behavioral Facility in Wilmington, North Carolina due to a mental outburst.
23

24 April of 2021 Petitioner was IVC'ed at Brunswick County Medical Center when
25 he was escorted by a Brunswick County officer following another mental outburst.
26

27 Brunswick County Medical Center received Petitioner dehydrated and starving
28 due to insurmountable depression in connection to his recent relocation and lack of exercise.
29

30 April of 2021 Petitioner was again received at Catawba Medical Facility outside
31 of Charlotte, NC due to a mental outburst.
32

AMENDED COMPLAINT FOR CIVIL PENALTIES AND JUDICIAL RELIEF - 2

1 Petitioner admits that physical exercise will prevent mental stress and exertion
2 which would decrease hospital visits.

3 Petitioner received psychological treatment within all three facilities in which it
4 was strongly recommended that Petitioner continue a healthy lifestyle in accordance with his
5 dietary and physical fitness needs.

6 Prior to his relocation Petitioner was a regular visitor of various YMCA facilities
7 due to his national membership with the most recent being in Miami, FL.

8 Petitioner informed the mental facilities that he was a member of the YMCA
9 organization and utilized the facility to treat his physical fitness which improved his mental
10 condition and overall health.

11 During Petitioner's commitments to the three mentioned hospitals, Petitioner
12 admitted that he had failed to attend his YMCA gym appointments due to relocation from South
13 Miami Dade, Florida.

14 All hospitals stressed the importance of the Petitioner to continue his gym
15 utilization while he remained a North Carolina resident due to his diagnosis of PTSD and bipolar
16 disorder.

17 Once released from the Catawba Medical facility Petitioner experienced a
18 cardiovascular emergency that required vital signs monitor and hospital visit at Atrium Hospital
19 in Charlotte, NC.

20 Doctors strongly recommended that Petitioner continue physical fitness in order
21 to improve cardio health.

22 Petitioner mentioned his YMCA membership and it was recommended by his
23 doctors to continue its use to avoid depression or any cardio emergency.

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28 AMENDED COMPLAINT FOR CIVIL PENALTIES AND JUDICIAL RELEIF - 3

1 Petitioner arrived at Wilmington, NC on Tuesday May 11th, 2021, at 9:00 AM to
2 Wilmington, NC YMCA with witnesses in order to utilize his YMCA national membership to
3 which he was refused entry.

4 Prior to Petitioner's arrival, he was warned that Wilmington YMCA discriminates
5 against African Americans.

6 Petitioner identifies as a minority member due to his inability to work because of
7 his disability status.

8 Petitioner was forced to cancel his national membership by Wilmington YMCA
9 staff on the promise that he could join the Wilmington YMCA with the same benefits although
10 he was already a member of the YMCA.

11 Petitioner completed an application within the facility using their in-house tablet
12 to apply and Petitioner was assisted by Wilmington YMCA staff during the application process
13 to fully complete the application properly. Petitioner explained his mental disability to YMCA
14 staff during this process.

15 Petitioner's application was accepted in which he received a promise of
16 membership within 24hrs of his application.

17 Petitioner's application was denied on May 12th at 11:30AM which was later than
18 the 24hrs promised and although he was also promised membership.

19 Petitioner informed Wilmington YMCA that denial of his application would be
20 discriminatory because of YMCA's awareness of his race, color, and knowledge of his disability.
21 All elements recognized by YMCA staff who observed the Petitioner during his applying to the
22 Wilmington facility.

1 The YMCA in Miami, FL informed Petitioner that Wilmington, NC was not
2 supposed to deny his national membership status and they were not supposed to force him to
3 apply for another membership. South Florida YMCA was aware his membership was being
4 changed by force which conflicts with the promises of the YMCA national membership.
5

6 Petitioner remains in need of physical fitness gym membership in order to
7 maintain his physical and mental health which was recommended by doctors.

8 The actions of the Respondent have harmed the Petitioner through the prolonged
9 denial of his membership.
10

11 Petitioner informed YMCA executives that denial of his membership would result
12 in legal action through email prior to Wilmington, NC's response to his application.

13 Petitioner sent this email after experiencing discriminatory behavior by various
14 YMCA staff during his application process.
15

16 Petitioner identifies himself as a disabled African American male recognized by
17 the state of North Carolina.

18 The YMCA of Wilmington, NC identifies itself as an affordable gym facility for
19 families and low-income individuals.

20 Petitioner was recently IVC'ed at New Hanover Regional Behavioral Medical
21 center again on June 2021 for another mental outburst.
22

23 Petitioner was an active member of YMCA of South Florida when he was denied
24 entry into Wilmington YMCA.

25 Wilmington YMCA did not offer membership until after Petitioner filed his
26 original lawsuit and served the Respondents.
27

28 CLAIMS

AMENDED COMPLAINT FOR CIVIL PENALTIES AND JUDICIAL RELIEF - 5

1 The Petitioner asserts and incorporates all facts provided to formulate these
2 claims:

3 Violation of 42 U.S. Code § 12101 Americans with Disabilities Act and 42 U.S.
4 Code § 2000a Prohibition against discrimination in places of public accommodation in which the
5 YMCA gym is open to members of the public for entertainment and exhibition services in order
6 to improve the health and well-being of members. Petitioner was forced to cancel his national
7 membership recognized by the YMCA national organization which allows access for all YMCA
8 members. Petitioner's application was unnecessarily denied.
9

10
11 Petitioner identifies as disabled African American male who held a previous
12 YMCA membership.

13 Violation of North Carolina Chapter 75B Discrimination in business as this
14 organization affects United States commerce and the membership contracts of the organization
15 are an action of business.
16

17 Violation of North Carolina Chapter 168A Persons with Disabilities Protection
18 Act as it is public knowledge that Petitioner suffers from (168A-3(1a) mental disabilities
19 recognized and identified by New Hanover County Hospital, Brunswick County Hospital, and
20 Catawba Medical Center.
21

22 **PRAYER FOR RELIEF**

23 The Petitioner request that the court find the Respondents guilty of violating 42
24 U.S. Code § 12101 Americans with Disabilities Act and 42 U.S. Code § 2000a Prohibition
25 against discrimination in places of public accommodation,

26 Find and declare the Respondents guilty of violating North Carolina Chapter 75B
27 Discrimination in business,
28

AMENDED COMPLAINT FOR CIVIL PENALTIES AND JUDICIAL RELIEF - 6

1 Find and declare Respondents guilty of violating North Carolina Chapter 168A
2 Persons with Disabilities Protection Act,

3 Petitioner request actual damages in the amount of \$350,000 which represents the
4 value in which the federal government has placed on preventing discriminatory acts through
5 public accommodation through historical actions. Compensatory damages in the amount of
6 \$50,000 in order to compensate years of Petitioner's membership and dedication to the YMCA
7 national organization. Petitioner also request punitive damages awarded by the State of North
8 Carolina, federal statute, or what the court may find necessary for the actions of the Respondents.
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10 Dated 15th of July 2021.

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13 _____
14 Kelvin Daise
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